

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BNSF RAILWAY COMPANY, a Delaware
Corporation, and RAILCREW XPRESS,
LLC, a Delaware Limited Liability
Company,

Third-Party Plaintiffs,

vs.

SERGIO TINAJERO,

Third-Party Defendant.

4:24CV3051

ORDER TO SHOW CAUSE

This matter comes before the Court after a review of the docket and pursuant to NECivR 41.2, which states in relevant part: “At any time, after appropriate notice, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution.”

Defendants/Third-Party Plaintiffs BNSF Railway Company (“BNSF”) and Railcrew Xpress, LLC (“RCX”) jointly filed a third-party complaint against Sergio Tinajero. [Filing No. 15](#). On October 2, 2024, the Clerk of the Court entered default against Tinajero for failure to appear or otherwise defend upon BNSF and RCX’s joint motion. [Filing No. 30](#); [Filing No. 27](#).

Plaintiff later settled his claims against BNSF and RCX in the underlying litigation. The Court approved the parties’ stipulation of dismissal and dismissed Plaintiff’s claims against BNSF and RCX with prejudice on March 19, 2025. BNSF and RCX’s claims against Tinajero remain pending. [Filing No. 44](#). BNSF and RCX have not taken any additional action to prosecute their claims against Tinajero.

They have a duty to prosecute their claims and may, for example, seek default judgment in accordance with the applicable rules or take other action as appropriate.

Accordingly,

IT IS ORDERED that BNSF and RCX shall have until May 7, 2025 to show cause why their claims against Tinajero should not be dismissed pursuant to NECivR 41.2 for want of prosecution. The failure to timely comply with this order may result in dismissal of this action without further notice.

Dated this 9th day of April, 2025.

BY THE COURT:

s/ Jacqueline M. DeLuca

United States Magistrate Judge